

-----Original Message-----

From: Kevin Tighe [mailto:KTighe@ohhs.ri.gov]

Sent: Monday, November 01, 2010 3:56 PM

To: datasearch@earthlink.net

Subject: RE: Public Records Request - Rhode Island

Dear Mr. Kramer,

Thank you for your e-mails of October 21, 2010, and October 24, 2010.

As you know from the automatic response on my e-mail account, I was out of the office as of October 21, 2010, and did not return to the office until October 27, 2010.

As I stated in my initial response of October 20, 2010, Rhode Island statute does delineate certain categories of documents that shall not be deemed public. The statutory section I referenced, RIGL 38-2-2(4)(M), lists correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities as one of the categories of documents that shall not be deemed public.

While you are correct that Mr. Alexander is not an elected official, Senator Grassley is. In your original request, you asked that the Department "provide the correspondence to and from Senator Grassley."

The basis of the Department declining to provide these records does not lie in Mr. Alexander's position, but rather in Senator Grassley's position as an elected official. These documents clearly fall within the statutory provision under RIGL 38-2-2(4)(M).

You also requested the records sent by the Department in response to Senator Grassley's correspondence. Insofar as these records inform the correspondence from Senator Grassley, and are an inherent part and parcel of the correspondence to Senator Grassley, it is the position of the Department that the same statutory provision applies.

Your e-mail of Thursday, October 21, 2010, raises a question of whether you are now indicating a different request. If you in fact do have a different request, you may certainly make that request, and the Department will review it and respond. I am attaching a form that the Department suggests be used for public records requests. It will assist the Department in responding to your request. For example, it is impossible for the Department to respond to a public records request when the records requested are identified with "etc."

In conclusion, if you wish to appeal the denial of any records that you have sought, RIGL 38-2-8 (a) provides that any person or entity denied the right to

inspect a record of a public body by the custodian of the record may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition. For the purposes of any such appeal, the Chief Administrative Officer is Gary Alexander, Director of the Department of Human Services. His address is 600 New London Avenue, #57, Cranston, Rhode Island 02920.

Kevin Tighe

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]
Sent: Monday, November 01, 2010 11:15 AM
To: 'KTighe@ohhs.ri.gov'
Cc: 'sstenhouse@gov.state.ri.us'; 'GAlexand@dhs.ri.gov';
'galexander@dhs.ri.gov'; 'theslin@projo.com'
Subject: RE: Public Records Request - Rhode Island

Dear Mr. Tighe,

Can you please respond?

Sincerely,

Ken Kramer

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]
Sent: Thursday, October 21, 2010 6:59 PM
To: 'Kevin Tighe'
Cc: 'sstenhouse@gov.state.ri.us'; 'GAlexand@dhs.ri.gov';
'galexander@dhs.ri.gov'; 'theslin@projo.com'
Subject: RE: Public Records Request - Rhode Island

Dear Mr. Tighe,

Gary D. Alexander is not an elected official.
In addition, the list of top prescribers is not a correspondence.
Please provide the public records as requested.

Sincerely,

Ken Kramer

-----Original Message-----

From: Kevin Tighe [mailto:KTighe@ohhs.ri.gov]

Sent: Wednesday, October 20, 2010 11:17 AM

To: datasearch@earthlink.net

Subject: Re: Public Records Request - Rhode Island

Dear Mr. Kramer,

I am in receipt of you e-mail of October 7, 2010, at 8:01 p.m., received by this Department on October 8, 2010, requesting as public records copies of correspondence to and from Senator Charles Grassley, and records sent to Senator Grassley "regarding his request for the top ten Medicaid prescribers of Abilify, Geodon, Risperda, Seroquel, Zyprexa, Xanax, etc for 2008 and 2009."

As you may know, access to public records is governed by RIGL 38-2-1 et seq. The statute does delineate a number of categories of documents that shall not be deemed public. RIGL 38-2-2 (4)(M) does provide that "Correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities" are among those documents that are not to be deemed public. The documents you have requested are such documents, are not to be deemed public and are exempt from disclosure pursuant to statute. The Department therefore respectfully denies your request to provide these records.

If you wish to discuss this matter further, please feel free to contact me.

Very truly yours,

Kevin D. Tighe
Senior Legal Counsel, OHHS/DHS

From: Sue Stenhouse [mailto:sstenhouse@gov.state.ri.us]

Sent: Wednesday, October 20, 2010 11:15 AM

To: GAlexand@dhs.ri.gov; datasearch@earthlink.net

Cc: galexander@dhs.ri.gov

Subject: RE: Public Records Request - Rhode Island

I have passed along to our legal counsel, who in turn has asked for a response from OHHS.

Hope this is helpful.

Sue

Sue A. Stenhouse
Director
Community Relations
Office of the Governor
State of Rhode Island and Providence Plantations
State House, Room 112
Providence, RI 02903-1196
Tel: (401) 222-2389
Fax: (401) 222-8094

>>> <datasearch@earthlink.net> 10/19/2010 8:51 PM >>>
Can anyone assist on this?
I'm having difficulty getting a response from Mr. Alexander.

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]
Sent: Saturday, October 16, 2010 12:31 PM
To: 'Galexand@dhs.ri.gov'
Cc: 'galexander@dhs.ri.gov'
Subject: RE: Public Records Request - Rhode Island

Mr. Alexander?

-----Original Message-----

From: datasearch@earthlink.net [mailto:datasearch@earthlink.net]
Sent: Thursday, October 07, 2010 8:01 PM
To: 'Galexand@dhs.ri.gov'
Subject: Public Records Request - Rhode Island

Dear Mr. Alexander,

This is a request for public records.

Please provide a copy of the records sent to U.S. Senator Grassley regarding his request for the top ten Medicaid prescribers of Abilify, Geodon, Risperdal, Seroquel, Zyprexa, Xanax, etc for 2008 and 2009. In addition please provide the correspondence to and from Senator Grassley.

Please provide an electronic copy of these public records via e-mail.

Sincerely,

Ken Kramer

PATRICK J. LEAHY, VERMONT, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6276

BRUCE A. COHEN, *Chief Counsel and Staff Director*
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

January 23, 2012

VIA ELECTRONIC TRANSMISSION

Paula Avarista
Chief of Pharmacy
Rhode Island Medicaid
Hazard Building #74, Room 214
74 West Road
Cranston, Rhode Island 02920

Dear Ms. Avarista:

On May 4, 2010, your state provided my office with data regarding the top ten prescribers of several pain management and mental health drugs in your state. These types of drugs have addictive properties, and the potential for fraud and abuse by prescribers and patients is extremely high. Mental health drugs continue to be prescribed at astounding rates and pain management clinics are turning into a hotbed for black market painkillers. When these drugs are prescribed to Medicaid patients, it is the American people who pay the price for over-prescription, abuse, and fraud.

After an extensive review of prescribing habits of the serial prescribers of pain and mental health drugs in Rhode Island, I have concerns about the oversight and enforcement of Medicaid abuse in your state. While I am sensitive to the concerns of misinterpretation of the data you provided, the numbers themselves are quite shocking.

For example in 2009, prescriber 1427089283 wrote 599 scripts for Xanax—twice the amount of the second top prescriber. Likewise, prescriber number 1114939170 wrote 329 scripts for Zyprexa, nearly twice as much as prescriber two.

It is my intention to ensure that each of the states is adequately monitoring, investigating, and stopping fraud and over-prescription of these types of drugs. Therefore, please provide answers to the following questions:

1. What action, if any, has your agency taken with respect to the prescribers identified to the Committee?
2. If there has been no action taken with respect to these prescribers, please explain why not.
3. Please identify which of the providers identified to the Committee remain eligible to bill the Medicaid Program.
4. Please provide the 2010 and 2011 numbers for the top prescribers of these same drugs.
5. Has each of these prescribers been cross-checked for complaints or misconduct with the state medical board or the National Practitioner Data Bank? If not, do you plan to do so?
6. Have any of the prescribers identified to this Committee been referred to your state medical board?
7. Is there any system set up in your state to identify and monitor excessive prescription writing? If not, why not?
8. Have you received any training or guidance from the Centers for Medicare and Medicaid Studies to help identify potential issues with prescription drugs?
9. Does your state maintain a database of all prescribed controlled-substances? If so, what entities have access to it?
10. Does your state have any point-of-sale restrictions related to maximum units, prior authorization, therapeutic duplication, or early refill? If not, why not?
11. Were any of these top ten prescribers identified in the federal-mandated Drug Utilization Review or CMS-base retrospective reviews?
12. Does your state have any programs in place to educate providers about the prescription of antipsychotics to children and adolescents?

Thank you in advance for your cooperation and attention in this matter. When responding to this letter, please number your answers in accordance with my questions. I would appreciate a response by February 13, 2012. If you have any questions, please do not hesitate to contact Erika Smith of my staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary